

## REMARKS

### I. Introduction

Claims 1 and 3-24 are pending in the application. In the Office Action dated Feb. 18, 2009, the Examiner rejected claims 1, 3, 4, 6-13, 15-19, and 21-24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. Pub. No. 2002/0116473 (“Gemmell”) in view of U.S. Pat. No. 6,496,980 (“Tillman”). Further, claims 5, 14, and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gemmell in view of Tillman and U.S. Pat. No. 5,790,935 (“Payton”). In this Amendment, Applicants have amended claims 1, 11, 12, and 21, and cancelled claims 5, 14, and 18-20.

### II. The Proposed Combination Does Not Render Claim 1 Unpatentable

Amended independent claim 1 recites downloading a complete copy of a low-quality video portion to a subscriber terminal via a digital subscriber line during off-peak hours for storage locally at the subscriber terminal. The proposed combinations of Gemmell, Tillman, and Payton fail to teach this element.

In the proposed combination of Gemmell, Tillman, and Payton, the Examiner asserts that Gemmell teaches pre-fetching layers of a video program and the Payton teaches downloading items during off peak hours. Therefore, it is asserted that Gemmell in view of Payton teaches downloading a complete copy of a low-quality video portion to a subscriber terminal via a digital subscriber line during off-peak hours for storage locally at the subscriber terminal. Applicants respectfully disagree.

Gemmell is directed to progressive streaming media rendering. In paragraphs [0048] and [0051] of Gemmell, cited by the Examiner, versions of a program that are of a quality higher than versions of a program that have been previously received may be received and cached in case a user later requests to view a higher quality version of the program. The cited portions of Gemmel do not teach pre-fetching of a low-quality video portion to a subscriber terminal as asserted by the Examiner.

Payton is directed to a virtual on-demand digital information delivery system and method. In the Abstract of Payton, cited by the Examiner, a program may be downloaded and stored locally during off-peak hours based on a prediction of which programs a user may request. While the cited portion of Payton may teach

downloading during off-peak hours, the cited portion of Payton does not teach downloading a low-quality portion of a program during off-peak hours.

The cited portions of both Gemmell and Payton fail to teach pre-fetching a low-quality video portion of video content and fail to teach downloading a low-quality video portion of video content during off-peak hours. Accordingly, the combination of Gemmell and Payton as contemplated by the Examiner necessarily fails to teach downloading a complete copy of a low-quality video portion to a subscriber terminal via a digital subscriber line during off-peak hours for storage locally at the subscriber terminal. For at least this reason, the proposed combinations of Gemmell, Tillman, and Payton do not render amended independent claim 1, or any claim that depends on claim 1, unpatentable.

### **III. The Proposed Combinations Do Not Render Claim 11 Unpatentable**

Amended independent claim 11 generally recites a subscriber unit for storing one or more lower quality portions of decompressed video corresponding to higher quality parts stored in a video repository, wherein the lower quality parts are downloaded to the subscriber unit during off-peak hours. As discussed above in conjunction with claim 1, the proposed combinations of Gemmell, Tillman, and Payton fail to teach that a low-quality portion of decompressed video is downloaded to a subscriber unit during off-peak hours. For at least this reason, the proposed combinations of Gemmell, Tillman, and Payton do not render amended independent claim 11, or any claim that depends on claim 11, unpatentable.

### **IV. The Proposed Combinations Do Not Render Claim 21 Unpatentable**

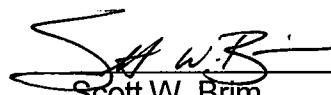
Amended independent claim 21 recites means for downloading a low quality part of the video content during off-peak hours that represents a complete copy of the program at a low video quality to the networked device via a digital subscriber line for storage therein. As discussed above in conjunction with claim 1, the proposed combinations of Gemmell, Tillman, and Payton fail to teach downloading a low quality part of video content during off-peak hours. For at least this reason, the proposed

combinations of Gemmell, Tillman, and Payton do not render amended independent claim 21, or any claim that depends on claim 21, unpatentable.

**V. Conclusion**

In view of the amendments to the claims and the foregoing remarks, Applicants submit that the pending claims are in condition for allowance. Reconsideration is therefore respectfully requested. If there are any questions concerning this Amendment, the Examiner is asked to phone the undersigned attorney at (312) 321-4200.

Respectfully submitted,



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